

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MARY E. BARBOUR AS TRUSTEE
FOR THE MARY E. BARBOUR
FAMILY TRUST ONE, Derivatively
On Behalf of BROCADE
COMMUNICATIONS SYSTEMS,
INC.,

Plaintiff.

VS.

GREGORY L. REYES, DAVID L. HOUSE, MICHAEL KLAYKO, RICHARD DERANLEAU, KUMAR MALAVALLI ANTONIO CANOVA, MICHAEL J. BYRD, STEPHANIE JENSEN, NEIL DEMPSEY, SANJAY VASWANI, L. WILLIAM KRAUSE, ROBERT R. WALKER, GLENN C. JONES, MICHAEL J. ROSE, SETH D. NEIMAN, NICHOLAS G. MOORE, CHRISTOPHER B. PAISLEY, WILLIAM K. O'BRIEN, LARRY SONSINI, MARK LESLIE, TYLER WALL, RENATO A. DIPENTIMA, JOHN W. GERDELMAN, KPMG, LLP, WILSON SONSINI GOODRICH & ROSATI, P.C. AND DOES 1-25, inclusive.

Defendants.

and

BROCADE COMMUNICATIONS
SYSTEMS, INC., a Delaware
corporation.

Nominal Defendant.

Case No. C 08-02029 CRB

[PROPOSED] ORDER GRANTING
PLAINTIFF'S ADMINISTRATIVE
MOTION TO LODGE PORTIONS OF
AMENDED COMPLAINT UNDER
SEAL.

Dept.: 8

1 WHEREAS, Plaintiff Mary E. Barbour filed an Amended Complaint on July
2 21, 2008;

3 WHEREAS, because the Amended Complaint contains information obtained
4 from documents which one or more defendants have designated as confidential,
5 Plaintiff Barbour filed an Administrative Motion to Lodge a Portion of Amended
6 Complaint Under Seal pursuant to L.R. 7-11 and L.R. 79-5 on July 21, 2008.

7 Good cause appearing, IT IS ORDERED AS FOLLOWS:

8 1. Plaintiff's Administrative Motion is GRANTED.

9 2. Any party that wishes for the redacted allegations in the Amended

10 Complaint to be sealed must file with the Court and serve a declaration
11 establishing that the designated information is sealable, and must lodge
12 and serve a narrowly tailored proposed sealing order, or must withdraw
13 the designation of confidentiality. N.D. Cal. Civ. L.R. 79-5(d). Such a
14 declaration must provide a "particularized showing" of "good cause" for
15 sealing redacted allegations, and if such allegations later become used in a
16 dispositive motion, the party seeking to keep them sealed must show a
17 "compelling reason" to do so. *Kamakana v. City & County of Honolulu*,
18 447 F.3d 1172, 1180 (9th Cir. 2006). See also *Reilly v. MediaNews*
19 *Group, Inc.*, No. C 06-04332 SI, 2007 WL 196682, at *4 (N.D. Cal. Jan.
20 24, 2007) ("For good cause to exist, the party seeking protection bears the
21 burden of showing specific prejudice or harm will result if no protective
22 order is granted....") (quoting *Phillips v. Gen. Motors Corp.*, 307 F.3d
23 248, 253 (7th Cir. 2002)).
24 IT IS FURTHER ORDERED that the Amended Complaint is hereby sealed
25 and filed as Exhibit A to the Administrative Motion to Lodge a Portion of Amended
26 Complaint Under Seal. The Clerk shall enter judgment in accordance with the
27 terms of the Administrative Motion to Lodge a Portion of Amended Complaint Under Seal.
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1206, 1211 (9th Cir. 2002).

3. If a party that seeks to protect the redacted allegations from public disclosure fails to file a declaration within five days, then the unredacted Amended Complaint will be made part of the public record.

IT IS SO ORDERED.

Dated:

**THE HON. CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE**
